

### **Remarks**

Applicants respectfully request that the Examiner reconsider the present application in light of the above amendments and following remarks. Claims 1, 10, 13, 14 and 32 have been amended and claims 35-44 have been cancelled. No claims have been added. Therefore, claims 1, 4-18 and 30-34 are pending in the present application.

Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated that there are omitted elements in claim one, namely, the safe housing. *See Final Office Action*, pg. 2. Therefore, claim 1 has been amended to state that the configurable safe includes a housing having a plurality of safe walls defining an interior compartment. Therefore, Applicants request that the rejection of claim 1 be withdrawn.

Claims 1, 17, 18 and 30 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,687,856 to Kendrena ("the Kendrena reference"). Based on the above amendments, Applicants respectfully traverse the rejection of the remaining claims.

Amended claim 1 is directed to a configurable safe for storing firearms including a housing having a plurality of safe walls defining an interior compartment. The safe includes a bracket positioned on an interior surface of one of the plurality of walls, wherein a groove is formed between the bracket and the safe wall. The safe also includes at least one barrel receiving module having at least one barrel

receiving cradle for receiving a barrel of a gun, a rear wall, and a clip. The clip extends parallel to the rear wall for movably mounting the barrel receiving module to the bracket. The clip is configured to be positioned in the groove and against the wall.

The Kendrena reference does not teach or suggest a safe including at least one barrel receiving module having a rear wall and a clip extending parallel to the rear wall as recited in amended claim 1. In rejecting claim 1, the Examiner stated that the clip (30) in the Kendrena reference extends generally parallel from the rear wall of the barrel receiving module (60) since the term generally parallel can be interpreted as up to a 45 degree angle between the elements. *See Final Office Action*, pg. 3. Claim 1 has been now amended to state that the clip extends parallel, in contrast to generally parallel, to the rear wall of the at least one barrel receiving module. Since the clip (30) extends from the rear wall of the barrel receiving module (60) at about a 45 degree angle in the Kendrena reference, Applicants submit that the Kendrena reference fails to teach all of the elements included in amended claim 1.

For at least this reason, Applicants submit that the Kendrena reference fails to anticipate the limitations included in amended claim 1. As such, Applicants request that the rejection of claim 1 be withdrawn. As claims 17, 18 and 30 depend from claim 1, these claims are also not taught or suggested by the Kendrena reference for at least the same reason set forth with respect to claim 1. Applicants request that the rejection of claims 17, 18 and 30 be withdrawn.

Claims 9-11, 13 and 31-34 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kendrena reference in view of U.S. Patent No. 5,435,641 to Dumon Dupuis ("the Dumon reference"). Applicants respectfully traverse this rejection.

As stated above with respect to claim 1, the Kendrena reference fails to teach or suggest a safe including at least one barrel receiving module having a rear wall and a clip extending parallel to the rear wall. The Dumon reference also fails to teach this limitation that was lacking in the Kendrena reference. Since claims 9-11, 13 and 31-34 depend from claim 1, these claims are not taught or suggested by the combination of the Kendrena and Dumon references for at least the same reason set forth with respect to claim 1.

Furthermore, dependent claim 10 recites an additional limitation not taught or suggested by the Kendrena and Dumon references. Amended claim 10 states that the bracket includes a first leg, a second leg, and a transition member that offsets the first and second legs so that the bracket is Z-shaped. The Examiner acknowledged that the Kendrena reference does not teach all of the limitations included in claim 10. In addition, the Dumon reference does not teach the limitations in amended claim 10, specifically, the bracket (39) shown in the Dumon reference is clearly not Z-shaped as is provided in the present invention (i.e., bracket (12)) illustrated in FIG. 1C of the present patent application. The same argument applies to dependent claim 32. For this additional reason, Applicants request that the rejection of claims 10 and 32 be withdrawn.

Claims 1, 4, 5, 9-11 and 30-33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,415,932 to Fiscus et al. ("the Fiscus reference") in view of U.S. Patent No. 5,224,609 to Bauer ("the Bauer reference"). Applicants respectfully traverse this rejection.

In rejecting claim 1, the Examiner stated that the Fiscus reference teaches all of the elements included in claim 1 except a groove formed between the bracket and the wall, and the clip configured to be positioned in the groove against the wall. See *Final Office Action*, pg. 6. In order to teach the limitations that were lacking in the Fiscus reference, the Examiner combined the teachings of the Bauer reference with the Fiscus reference. See *id.* In particular, the Examiner stated that it would have been obvious to have modified the gun rack in the Fiscus reference by using the bracket and clip structure shown in the Bauer reference to be removably attached to the safe wall. See *Final Office Action*, pgs. 6-7.

However, the Examiner has failed to provide any specific evidence from the references of record to indicate that using the bracket (1) and clip (16, 160) arrangement from the Bauer reference in the gun rack disclosed in the Fiscus reference would have been obvious to one skilled in the art. See *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (stating that the showing of obviousness must be clear and particular); see also *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968) (stating that a rejection based upon 35 U.S.C. § 103(a) must rest on a factual basis). The Examiner has merely made an unsupported assertion that the combination would have been obvious. See *Final Office Action*, pg. 6, last two lines; pg. 7, first two

lines. In addition, nothing in the Fiscus reference suggests that using the bracket (1) and clip (16, 160) arrangement from the Bauer reference would have been obvious given the discussion of the method of attaching the module (10) to the wall of the safe. See *Fiscus*, Col. 2, lines 64-67; Col. 3, lines 1-15. Specifically, the only method of attaching the module (10) to the wall that is discussed in the Fiscus reference is a fixed connection using screws (23). See *id.* No movable mounting of the module (10) is discussed or suggested in the Fiscus reference. The Fiscus reference merely discloses a fixed gun rest module (10) having multiple gun rest positions that span across the selected mounting wall. The use of multiple gun barrel rest positions on a single fixed module (10) in the Fiscus reference actually teaches away from the use of gun barrel modules that may be movably mounted and configured on the safe wall. Moreover, nothing in the Bauer reference indicates that the bracket (1) and clip (16, 160) arrangement may be used in the solving the specific problem of moveably mounting a barrel receiving module to a wall of a safe. As such, Applicants submit that the rejection of claim 1 is not based on clear and particular evidence that is required to overcome a prima facie case of obviousness.

For at least these reasons, Applicants submit that a prima facie case of obviousness has not been established for combining the teachings of the Bauer reference with the Fiscus reference. Applicants therefore request that the rejection of claim 1 be withdrawn. As claims 4, 5, 9-11 and 30-33 depend from claim 1, these claims are not taught or suggested by the Fiscus and Bauer references for at least the same reasons set forth with respect to claim 1.

Furthermore, dependent claim 10 recites an additional limitation not taught or suggested by the Fiscus and Bauer references. Amended claim 10 states that the bracket includes a first leg, a second leg, and a transition member that offsets the first and second legs so that the bracket is Z-shaped. Both the Fiscus and Bauer references do not teach the limitations in amended claim 10. Specifically, the Fiscus reference does not even disclose a bracket for mounting the module (10) to the wall. As for the Bauer reference, there has been no evidence presented that the bracket (1) is Z-shaped, as is provided in the present invention (i.e., bracket (12)) illustrated in FIG. 1C of the present patent application. The same argument applies to dependent claim 32. For this additional reason, Applicants request that the rejection of claims 10 and 32 be withdrawn.

Claims 6-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fiscus reference in view of the Bauer reference and in further view of U.S. Patent No. 2,783,896 to Agostini ("the Agostini reference"). Applicants respectfully traverse this rejection.

As stated above with respect to claim 1, the Examiner has failed to establish a prima facie case of obviousness based on the combination of the Fiscus and Bauer references. Further, Applicants submit that the addition of the Agostini reference into this combination also does not establish a prima facie case given the Applicants comments set forth above with respect to claim 1. Since claims 6-8 depend from claim 1, Applicants submit that claims 6-8 are not obvious in light of the combination proposed by the Examiner for at least the same reasons set forth with

respect to claim 1. It is therefore requested that the rejection of claims 6-8 be withdrawn.

Claims 12 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,042,207 to Crosby ("the Crosby reference") in view of the Fiscus reference and the Bauer reference. Applicants respectfully traverse this rejection.

As stated above with respect to claim 1, the Examiner has failed to establish a prima facie case of obviousness based on the combination of the Fiscus and Bauer references. Further, Applicants submit that the addition of the Crosby reference into this combination also does not establish a prima facie case given the Applicants comments set forth above with respect to claim 1. Specifically, the racks (16) disclosed in the Crosby reference do not teach or suggest the use of a clip to moveably mount the racks (16) to a bracket positioned on the interior surface of a wall as acknowledged by the Examiner. See *Final Office Action*, pg. 10. Since claims 12 and 13 depend from claim 1, Applicants submit that claims 12 and 13 are not obvious in light of the combination proposed by the Examiner for at least the same reasons set forth with respect to claim 1. It is therefore requested that the rejection of claims 12 and 13 be withdrawn.

Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Crosby reference in view of the Fiscus reference and Bauer reference in further view of U.S. Patent No. 5,921,407 to Kabanek ("the Kabanek reference"). Applicants respectfully traverse this rejection.

As stated above with respect to claim 1, the Examiner has failed to establish a prima facie case of obviousness based on the combination of the Fiscus and Bauer references. Further, Applicants submit that the addition of the Kabanek reference into this combination also does not establish a prima facie case given the Applicants' comments set forth above with respect to claim 1. Since claims 14 and 15 depend from claim 1, Applicants submit that claims 14 and 15 are not obvious in light of the combination proposed by the Examiner for at least the same reasons set forth with respect to claim 1. It is therefore requested that the rejection of claims 14 and 15 be withdrawn.

Claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fiscus reference in view of the Bauer reference in further view of U.S. Patent No. 3,899,983 to Hernandez ("the Hernandez reference"). Applicants respectfully traverse this rejection.

As stated above with respect to claim 1, the Examiner has failed to establish a prima facie case of obviousness based on the combination of the Fiscus and Bauer references. Further, Applicants submit that the addition of the Hernandez reference into this combination also does not establish a prima facie case given the Applicants' comments set forth above with respect to claim 1. Since claim 16 depends from claim 1, Applicants submit that claim 16 is not obvious in light of the combination proposed by the Examiner for at least the same reasons set forth with respect to claim 1. It is therefore requested that the rejection of claim 16 be withdrawn.



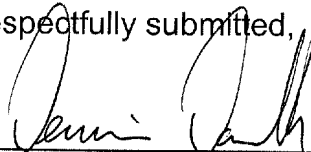
**Conclusion**

In light of the foregoing, Applicants submit that claims 1, 4-18 and 30-34 are in condition for allowance and such allowance is respectfully requested. Should the Examiner feel that any unresolved issues remain in this case, the undersigned may be contacted at the telephone number listed below to arrange for an issue resolving conference.

Applicants do not believe that any fee is due at this time. However, the Commissioner is hereby authorized to charge any fee that may have been overlooked to Deposit Account No. 10-0223.

Dated: 9/15/06

Respectfully submitted,

  
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